IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1387 of 1997

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgment? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

VIRJIBHAI BHAGWANJIBHAI CHAUDHARY

Versus

DHARNANT DESURBHAI MADAM

Appearance:

MR SANDEEP N BHATT for the Petitioner.

NOTICE UNSERVED for Respondent No. 1-2

MR SANDIP C SHAH for Respondent No. 3

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 25/08/2004

ORAL JUDGEMENT

The petitioner is the original claimant of Motor Accident Claim Petition No.185 of 1995. The said claim petition is pending before the Motor Accident Claims Tribunal, Morbi. In the said application, the present

petitioner-original claimant submitted an application under Section 140 of the Motor Vehicles Act for getting interim compensation under the doctrine of "no fault liability".

The Tribunal found that it is not in dispute that the Matador in question is owned by opponent No.2 and was driven by opponent No.1 and was insured with opponent No.3. The Tribunal, however, rejected the application for interim compensation on the ground that, looking to the certificate of the Doctor of the Government Hospital, it does not appear that the claimant sustained any fracture nor permanent disability can be said to have been caused to the claimant. It is the said order which is impugned in this Civil Revision Application.

This CRA is pending before this Court since 1997, and till today, respondents 1 and 2 are not served. Considering the said aspect of the matter, the learned Advocate for the petitioner submitted that in order to see that the main application is not delayed, appropriate direction be given to the Tribunal to dispose of the main Motor Accident Claim Petition expeditiously.

Considering the facts and circumstances of the case and considering the fact that the Motor Accident Clam Petition is pending since 1995, without disturbing the interim order of the Tribunal, Motor Accident Claim Petition No.185 of 1995 is directed to be disposed of by the Tribunal expeditiously, preferably, on or before 31st December, 2004.

It is clarified that whatever are the interim observations of the Tribunal, the same should not be taken into account at the time of deciding the main Motor Accident Claim Petition and the main Petition is required to be decided on its own merits and as per the evidence available on the record.

This CRA is disposed of accordingly. Rule is discharged. No costs.

The Office is directed to send the writ of this Court to the Tribunal forthwith.

25th August, 2004 (P.B. Majmudar, J.)

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(apj)